

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission	)	
On Its Own Motion	)	
	)	Docket No. 11-0593
v.	)	
Commonwealth Edison Company	)	
Investigation into compliance with the efficiency	)	
Standard requirement of Section 8-103 of the	)	
Public Utilities Act	)	

**REPLY BRIEF OF  
THE PEOPLE OF THE STATE OF ILLINOIS**

The People of the State of Illinois  
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## **TABLE OF CONTENTS**

<b>I.</b>	<b>INTRODUCTION / STATEMENT OF THE CASE.....</b>	<b>1</b>
<b>II.</b>	<b>THE COMMISSION SHOULD REJECT THE COMED/STAFF METHOD OF CALCULATING BANKED ENERGY SAVINGS BECAUSE IT WRONGLY INCREASES THE ALLOWED UTILITY BANKING BY INCLUDING DCEO'S SHARE OF ENERGY SAVINGS GOALS IN THE CALCULATION. ....</b>	<b>2</b>
<b>A.</b>	<b>The Staff/ComEd Endorsed Methodology Inflates the Utility's Permitted Banked Savings, Thereby Denying Ratepayers Those Future Energy Savings.....</b>	<b>3</b>
<b>B.</b>	<b>ComEd Is Not Responsible For Achieving DCEO's Allotted Savings Goal, And Is In No Way Punished By the AG-Recommended Banking Methodology.....</b>	<b>5</b>
<b>III.</b>	<b>THE COMMISSION'S ORDER IN THIS DOCKET SHOULD INCLUDE FINDINGS THAT SPECIFICALLY GUIDE THE ALLOCATION OF UTILITY AND DCEO ENERGY SAVINGS RESPONSIBILITIES.....</b>	<b>8</b>
<b>A.</b>	<b>The Commission Has the Regulatory Authority and Responsibility Under Section 8-103 of the Act to Oversee Utility/DCEO Energy Savings Allocations. ....</b>	<b>9</b>
<b>B.</b>	<b>Staff's Call for Retroactive Adjustment of Energy Savings Goals Is Problematic.....</b>	<b>13</b>
<b>IV.</b>	<b>RESOLUTION OF THE CFL CARRYOVER ISSUE IN THIS DOCKET IS UNNECESSARY.....</b>	<b>15</b>
<b>V.</b>	<b>CONCLUSION.....</b>	<b>16</b>

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The People of the State of Illinois, by and through Lisa Madigan, Attorney General of the State of Illinois, pursuant to Part 200.800 of the Commission’s Rules of Practice, hereby submit their Reply Brief in the above-captioned proceeding in response to the Initial Briefs filed by Commonwealth Edison Company (“ComEd”) and the Commission Staff (“Staff”) .

**I. INTRODUCTION**

The People’s Reply Brief primarily responds to issues related to (1) the proper calculation of banked savings for ComEd and (2) the need for the Commission to provide guidance in the form of specific findings in this docket to ensure the proper allocation of energy savings responsibility between the Company and DCEO going forward. A brief discussion of the CFL carryover issue is also included.

The People stand by their arguments presented in their Initial Brief on the issue of whether a separate cost-effectiveness review proceeding should be initiated after the close of this docket. *See* AG Brief at 26-27. The separate proceeding called for by Staff is simply

unnecessary at this point in time – especially in light of the ongoing Stakeholder Advisory Group process and the future filing of energy savings calculation dockets. Failure to discuss certain issues raised in the briefs of either ComEd or the Staff should not necessarily be interpreted as agreement on those topics.

**II. THE COMMISSION SHOULD REJECT THE COMED/STAFF METHOD OF CALCULATING BANKED ENERGY SAVINGS BECAUSE IT WRONGLY INCREASES THE ALLOWED UTILITY BANKING BY INCLUDING DCEO’S SHARE OF ENERGY SAVINGS GOALS IN THE CALCULATION.**

As noted in all of the initial briefs filed in this docket, both Staff and ComEd calculated a banked savings amount that is based on combining DCEO’s portion of the required energy savings goals with ComEd’s allotted energy savings goals. When the 10% banking cap authorized in Docket No. 07-0540 is applied to the combined goal, rather than the utility’s specific goal, ComEd benefits because the megawatt hours (“MWhs”) included in the banking calculation is larger.<sup>1</sup> The result, as pointed out by AG witness Mosenthal’s testimony, is ComEd’s proposed method of calculating banked savings based on DCEO’s portion of the goal -- despite DCEO not meeting its goal and ComEd not being responsible for this portion of the goal -- effectively captures an extra 20% more banked savings for the Company than would otherwise occur without inclusion of the DCEO portion of the savings goal. Such a result is illogical and contrary to Section 8-103(b) and (k) of the Act, subsections which clarify utility and DCEO energy savings responsibilities. *Id.* at 10.

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<sup>1</sup> The total *combined* goal was 584,077 MWh, and the combined PY3 savings achieved was 680,844 MWh. This is both higher than the combined goal, and also significantly in excess of the 10% excess savings cap for purposes of banking. As a result, ComEd has proposed it be allowed to bank 10% of the *combined* savings goal, or 58,408 MWh. AG Ex. 1.0 at 7-8.

**A. The Staff/ComEd Endorsed Methodology Inflates the Utility's Permitted Banked Savings, Thereby Potentially Denying Ratepayers Those Future Energy Savings.**

To be clear, ComEd is proposing to capture *an additional 20% more banking* (applying the 10% banking cap to an additional 20% more savings) than the Commission intended by banking 10% of DCEO's goal in addition to its goal. For PY3, DCEO not only did not meet its 20% of overall energy savings goal, but actually only achieved about 43% of that goal.<sup>2</sup> Clearly, it would not be appropriate to allow DCEO to bank 10% of its energy savings goal when it failed to even come close to meeting its goal, just because ComEd captured excess savings. It is likewise inappropriate for ComEd to effectively ask the Commission to give this additional theoretical banked savings opportunity (the 10% of DCEO's individual goal) to ComEd to apply to *its* future goals. AG Ex. 1.0 at 10. But that is precisely what the Staff/ComEd-endorsed methodology achieves.

In its Brief, Staff claims that calculating ComEd's banked savings using a calculation methodology that includes DCEO's portion of the savings goal "is beneficial in that it gives ComEd an incentive to fill shortfalls by DCEO, thereby helping to ensure that the goals set forth in Section 8-103(b) of the Act are achieved." Staff Brief at 5. This argument makes little sense, however.

First, while it is true that ComEd's banking calculation is consistent with how the Commission approved banking in Docket 10-0520, it cannot be argued that the Commission specifically addressed the issue at hand in this docket. A full reading of the Commission's Order shows no actual discussion of this issue as raised by AG witness Mosenthal. Thus, it is not clear whether the Commission intended this change based on a desire to modify the rule, or simply

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<sup>2</sup> See ComEd Exhibit 1.0 Corrected at 4, 7 (percentage calculated from numbers provided in testimony)

adopted Staff Witness Hinman's calculations of banking because it agreed with her position that banking should not be allowed if there are no excess savings above and beyond the combined statutory goals. In any case, the Commission is faced in *this docket* with a specific question as to whether it is illogical, lawful and in the public interest to permit a utility to benefit from a banking calculation that is based, in part, on DCEO's portion of the required energy savings goals.

As AG witness Mosenthal testified, banked savings are used by a program administrator to help it meet future goals. Further, Section 8-103 of the Act makes clear that ComEd (and any other utility in Illinois) is insulated from any responsibility or penalties if DCEO fails to meet its goals in the future. *See* 220 ILCS 5/8-103(k) ("No electric utility shall be deemed to have failed to meet the energy efficiency standards to the extent any such failure is due to a failure of the Department or the Agency.") As a result, it is both inequitable and contrary to this specific exculpatory language in Section 8-103(k) to permit ComEd (or any other electric utility) to benefit from DCEO goals when it comes to banking, *while having no responsibility for DCEO goals or any obligation to use these banked savings to apply to DCEO savings goals in the future*. As Mr. Mosenthal explained, these banked savings can only be used by ComEd to meet *its individual future goals*, and therefore should only come from banking related to ComEd's goals.

Allowing ComEd to claim banking on DCEO's portion of goals results in the Commission imposed 10% limit to be approximately a 12% limit when including DCEO's goals (which for PY3 were about 20% of the total goal). This clearly contradicts the Commission's intent in capping banking at 10%. Effectively, allowing this approach simply gives ComEd a "free ride" on DCEO's goals, and consequently, less invested efficiency measures for ratepayers

who are funding these programs, despite the fact that ComEd has no responsibility related to meeting the DCEO-portion of the goals.

**B. ComEd Is Not Responsible For Achieving DCEO's Allotted Savings Goal, And Is In No Way Punished By the AG-Recommended Banking Methodology.**

For its part, ComEd argues that the Commission's Order in Docket No. 10-0520 "is clear re regarding how to calculate banking." ComEd Brief at 9. The Company argues that when the Commission ruled that banking can only occur when the combined utility/DCEO goal is achieved, ComEd was "being called on to achieve its own goal and cover any DCEO shortfall... ." *Id.* at 10. ComEd views the idea of being permitted to bank 10% of its own goal, rather than a combined DCEO/ComEd goal, "inconsistent and unfair." *Id.*

But ComEd misstates both the clear exculpatory language of Section 8-103 of the Act and the intent of the Commission's 10-0520 Order. As noted above, Section 8-103(k) of the Act makes clear ComEd is not responsible for DCEO goals; the Commission's Order in Docket No. 10-0520 does not change this, nor could it under law. The Commission is an administrative agency whose power is derived from the legislature. *Business & Professional People for the Public Interest v. Illinois Commerce Comm'n*, 146 Ill.2d 175, 195 585 N.E.2d 1032 (1991). It's orders must adhere to the law as written by the General Assembly and interpreted by the Courts. ComEd's view of the Docket No. 10-0520 Order is that the Commission's approval of Ms. Hinman's banking calculation in that docket also triggered a new directive to ComEd to make up for DCEO's failure to achieve its portion of the allotted statutory savings in order to obtain banked savings. That interpretation, however, would obviate the exculpatory language of Section 8-103(k), and is simply wrong as a matter of law.

ComEd's suggestion that the OAG-recommended methodology somehow punishes ComEd "after being called on to achieve its own goal and cover any DCEO shortfall" is similarly hollow as a matter of fact. ComEd Brief at 10. The reality is if ComEd's energy efficiency performance, when combined with DCEO's performance, exceeds the statutory goal for a given year, it still is credited for banking purposes with savings that recognize the exceptional performance up to 10% of its authorized savings goal that can be applied to future years. Therefore, the incentive to exceed its authorized energy savings goal continues under the OAG-recommended banking calculation methodology.

ComEd also suggests that the OAG opposition to ComEd's banking calculation in this docket is untimely because the OAG intervened in Docket No. 10-0520, and "voiced no objection to the methodology proposed by Staff that was ultimately adopted." ComEd Brief at 10. The Company takes this argument a step further by suggesting that a recent Commission order in an unrelated telecommunications docket involving a company that failed to file an application for rehearing, thereby preserving its rights on appeal, "makes clear that the Commission strongly disfavors untimely arguments regarding issues already decided in prior dockets and that are tantamount to an impermissible collateral attack on a prior Commission order." *Id.* This argument, too, is contrary to law and should be rejected.

First, the concept of public utility regulation requires that the Commission have power to deal freely with each situation that comes before it, regardless of how it may have dealt with a similar or even the same situation in a previous proceeding. *Mississippi Fuel Corp. v. Illinois Commerce Comm'n*, 1 Ill.2d 509, 513 (1953). A record containing new evidence or argument that implicates past decisions compels reconsideration on the new record and may require a different result. *See Commonwealth Edison Co. v. Illinois Commerce Comm'n*, 405 Ill.App.3d



389,408 (2<sup>nd</sup> Dist. 2010). The record in this case demonstrates that the ComEd/Staff-favored methodology of combining DCEO's energy savings goals in the banking calculation is both inconsistent with the clear directives of Section 8-103(b) and (k), and an inequitable method of denying ratepayers additional energy savings by authorizing the utility to provide less energy savings in future years due to a banking calculation that incorporates DCEO's energy savings.

Second, it must be noted that no less authority than the Illinois Supreme Court has made clear that intervenors have no obligation to prove a policy or ratemaking adjustment is unreasonable in a particular docket. Any participation by persons or groups opposing a utility rate increase, for example, is voluntary and purely fortuitous. *People ex rel. Hartigan v. Illinois Commerce Comm'n*, 117 Ill.2d 120, 135 (1987). ("It is possible that no person or entity will seek to intervene when a rate increase is sought; in other cases, those who intervene may lack the financial resources or the incentive to launch a vigorous challenge to all aspects of the increase." citing *Calvert Cliffs' Coordinating Committee, Inc. v. Atomic Energy Com.* (D.C.Cir.1971), 449 F.2d 1109, 1118.) It is irrelevant whether the OAG took a position on how banking should be calculated in a prior case. ComEd's claim that asserting a position in this docket constitutes some kind of impermissible collateral attack borders on the absurd, and certainly is inconsistent with both the *Mississippi Fuel* and *Hartigan* rulings. The Commission's obligation in the instant docket is to reach a final order based on the evidence in *this* docket, in conjunction with an analysis of the applicable law.

Finally, it is worth noting that the Commission has made clear that it has the flexibility and authority to modify rules in the future based on new information – in this case the testimony of Mr. Mosenthal, an internationally known expert in energy efficiency, even if a change diverges from a past finding and Commission order. In fact, this is exactly what the Commission

did in Docket 10-0520 when it added a new secondary criterion to its already established banking policy. The decision to require that the combined utility/DCEO goal be met before the application of banking simply applies a logical and prudent secondary criterion that ComEd cannot use banking toward future years if its ratepayers have not actually benefited from savings above and beyond the combined statutory goals. This limit is solely about how much *excess savings can be applied to future years*, and in no way changes the overall obligations or protections of utilities and DCEO as established in the statute.

In sum, the issue in *this* docket is what is the best policy banking policy going forward in light of the evidentiary record of this case, the applicable law and public policy goals. On this issue, neither Staff nor ComEd has not offered any justification in as to why its banking calculation approach is logical, lawful and an appropriate policy in the public interest. Mr. Mosenthal's recommended banking calculation should be adopted.

### **III. THE COMMISSION'S ORDER IN THIS DOCKET SHOULD INCLUDE FINDINGS THAT SPECIFICALLY GUIDE THE ALLOCATION OF UTILITY AND DCEO ENERGY SAVINGS RESPONSIBILITIES.**

In the AG Initial Brief, the People argued that the Commission should exercise more regulatory control over the establishment and assessment of DCEO energy savings goals in particular and DCEO's efficiency programs in general. As noted in the AG Initial Brief, it is clear the General Assembly intended the Commission to have some sort of oversight and regulatory role that encompassed the entire utility/DCEO energy efficiency effort to ensure ratepayers capture the net benefits they are paying for, and that goals are set reasonably. Past Commission failure to oversee and assess DCEO efficiency performance to date has practical importance that, if not resolved, places the provision of *cost-effective* energy efficiency program efforts at risk. The People called for Commission findings in this (and other) Section 8-103

savings evaluation docket(s) to ensure that the utility/DCEO allocation of savings is fair so that ultimately, ratepayers are receiving all of the cost-effective energy efficiency investments to which they are entitled. To be clear, the People do not seek some sort of retrospective adjustment of DCEO goals for PY 3. Rather, the goal of ensuring cost-efficient programs for *all* customers demands Commission findings asserting its interest in and oversight of the allocation of energy savings goals between DCEO and each utility, as made clear by Section 8-103 of the statute. *See* AG Initial Brief at 13-24.

**A. The Commission Has the Regulatory Authority and Responsibility Under Section 8-103 of the Act to Oversee Utility/DCEO Energy Savings Allocations.**

In its Brief, ComEd, while expressing empathy with the OAG position, nevertheless points to the Commission’s Order and Order on Rehearing in Docket No. 10-0570 as a basis for rejecting the People’s request that the Commission assert authority in overseeing and analyzing DCEO’s performance in both the establishment of energy savings goals and future oversight of DCEO’s delivery of ratepayer-funded energy efficiency programs to utility customers. ComEd cites a previous Commission finding that “The Commission is not convinced that a blanket statement claiming jurisdiction over DCEO is appropriate or necessary. DCEO is a state agency and there is no clear statement in the statute that the Commission has jurisdiction over DCEO.”<sup>3</sup> *See* ComEd Brief at 15-16. However, as with the Commission’s rules on banking of savings, the Commission’s position on oversight of DCEO programs can likewise evolve over time. While the Commission was clearly “not convinced...a blanket statement claiming jurisdiction over DCEO is appropriate or necessary,” it did not preclude the possibility of a more nuanced position short of a “blanket statement” in the future.

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<sup>3</sup> *Commonwealth Edison Co.*, ICC Docket No. 10-0570, Order on Rehearing (May 4, 2011) at 3.

Moreover, as noted in the People’s Initial Brief, the statute clearly gives the Commission the right to impose goals for DCEO if ComEd and the agency fail to mutually agree on reasonable goals. 220 ILCS 5/8-103(e); AG Brief at 15. Contrary to the Commission’s statement in its Final Order in Docket No. 10-0570, the aforementioned language in Section 8-103(e) makes clear that the Commission has jurisdiction over DCEO efficiency goal setting and efficiency programs. It is the Commission, for example, that must assess whether DCEO must turn over authority of the delivery of public sector and low income programs to the Illinois Power Authority for failure to meet its goals over a three year period, pursuant to Section 8-103(j).<sup>4</sup>

ComEd asserts in its brief that it has always operated in good faith in determining energy savings goals for itself and DCEO. ComEd Brief at 17. The People do not challenge any claim of good faith or the intentions of any party in those discussions. The facts are, however, that the history of establishing the division of savings goals between ComEd and DCEO highlights the need for Commission oversight. First, DCEO admitted in testimony that it agreed with Mr. Mosenthal’s assessment that “DCEO has signed up for and filed goals that may in fact not be achievable, and that certainly have not been achieved by a wide margin.” DCEO Ex. 1.0 at 4. While ComEd points out it has negotiated a lower energy savings goal with DCEO for Program Years 4 through 6 (“PY 4-6”), as established in the order approving ComEd’s PY 4-6 energy efficiency programs (ComEd Brief at 16), the uncontroverted evidence reveals that even with these reduced goals, DCEO would still have to achieve approximately 50% greater savings

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<sup>4</sup> Section 8-103 (j) provides: If, after 3 years, or any subsequent 3-year period, the Department fails to implement the Department's share of energy efficiency measures required by the standards in subsection (b), then the Illinois Power Agency may assume responsibility for and control of the Department's share of the required energy efficiency measures. The Agency shall implement a competitive procurement program to procure resources necessary to meet the standards specified in this Section, with the costs of these resources to be recovered in the same manner as provided for the Department in this Section.

among its customers than called for in the statutory goals in order to achieve them.<sup>5</sup> Because the statute defines the total combined goal, this arrangement calling for DCEO to exceed its statutory portion by 50% directly results in ComEd's still being assigned a level of savings goals that do not truly reflect its percentage of the energy load. Further, no evidence has been provided that these reduced goals were a result of detailed analysis based on the cost-effective, achievable potential opportunities and the appropriate savings that could be captured within DCEO's mandated customer segments, given the 25% budget allocation it retains.

ComEd also asserts that the AG failed to challenge previous energy savings goals allocations in prior dockets. ComEd Brief at 17. Again, it is not up to intervenors to ensure the appropriateness of the allocation. To date, it has been assumed by all parties that DCEO could and would fairly advocate a position that was equitable given its responsibilities under Section 8-103 of the Act and its assigned customer load. Moreover, the resources dedicated to ratepayer advocacy before the Commission are limited. It is the Commission that is charged with ensuring that the terms of Section 8-103 are fairly delivered to ratepayers.

ComEd further highlights timing difficulties that make corrective adjustments of savings allocations between the utility and DCEO difficult and necessarily tardy. ComEd Brief at 18. These facts only highlight the need for specific direction from the Commission in this Order as to how allocations should be formulated so that the energy savings assigned to DCEO and the utility are correct and equitable going into each three-year plan. The OAG's call for findings in this docket are designed to ensure just that.

Finally, ComEd again invites Commission inaction by noting that the Commission ordered annual energy savings review dockets for PY 4-6 in its Docket No. 10-0570 Order.

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<sup>5</sup> DCEO Ex. 1.0 (Mrowzowski) at 10.

ComEd Brief at 19. That fact does nothing to fix the defects in the allocation of energy savings and the resulting orphaning of savings that have affected PY 1-3, and will apparently continue for PY 4-6, given Ms. Mrozowski's testimony. More importantly, both ComEd and DCEO will be left with no direction for what its evidentiary presentation should be on the issue of energy savings allocations for its upcoming three-year plan filing, due by September 1, 2013. 220 ILCS 5/8-103(f).

As noted in the AG Initial Brief, the Commission should include findings in this Order that direct a more formal and rigorous process to establish the goals allocation based on real analysis and historic performance. When assessing the division of statutory goals, the Commission should direct the utility and DCEO to agree to an allocation of savings based on both entities' (1) historical performance, (2) actual loads of the customer segments they serve and (3) the participation barriers faced by these segments. AG Ex. 1.0 at 20. AG witness Mosenthal suggested as a default starting point that each entity should strive to meet its share of the statutory percent-of-load goals, and that any deviation from that must be justified based on:

1. Unanimous agreement between ComEd and DCEO that its respective goals are reasonable and achievable, and consistent with their filed plans.
2. Analysis supporting the variance, showing that the proposed goals are achievable, planned to be achieved based on the programs filed, cost-effective, and justified based on broader policy criteria.
3. A showing from the entity proposing to adopt goals that are *lower than the statutory percent-of-load goals* that achievement of the statutory goals are not feasible within the budget caps and its share of budget allocation, and that it is in the best interest of ratepayers to shift some of this burden to the other entity.

AG Ex. 2.0 at 10-11. Presently, DCEO is unaccountable to any entity in terms of its spending and performance related to the energy efficiency programs. The People believe this is a concern that will result in greater problems as goals become more aggressive, and the spending caps limit

the availability of funding. These facts point to a need for the Commission to unequivocally assert its oversight over *both* utility and DCEO efficiency programs.

In order to prevent the aforementioned “orphaning” of energy savings goals, ComEd and DCEO should be obligated to analyze what is reasonably achievable and support a goal allocation supported by the evidence. Addressing this issue falls within the Commission’s role of ensuring appropriate use of ratepayer funds and overseeing the achievement (or lack thereof) of utilities and DCEO meeting the energy savings goals articulated in Section 8-103 of the Act. The People seek specific Commission finding in this docket regarding the procedures to be followed when establishing the utility/DCEO allocations of savings. Commission direction is needed to prevent the “orphaning” of energy savings in future years.

**B. Staff’s Call for Retroactive Adjustment of Energy Savings Goals Is Problematic.**

In its Brief, Staff argued that the Commission should oversee annual adjustments of energy savings goals if evidence is presented by evaluators that savings have not been achieved. The People support that goal in principle and *future* application. Subsection (e) of Section 8-103 provides:

If the Department is unable to meet incremental annual performance goals for the portion of the portfolio implemented by the Department, then the utility and the Department shall jointly submit a modified filing to the Commission explaining the performance shortfall and recommending an appropriate course going forward, including any program modifications that may be appropriate in light of the evaluations conducted under item (7) of subsection (f) of this Section.<sup>6</sup>

220 ILCS 5/8-103(e). The use of the word *annual* above suggests the General Assembly contemplated *revised* annual plans, rather than revisions to future three-year plans. This clearly

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<sup>6</sup> 220 ILCS 5/8-103(e)

has not happened to date. While ComEd and DCEO (in testimony) highlighted the fact that they negotiated different allocations of savings goals for PY 4-6, these do not constitute “revisions” because they are simply adjustments to new three-year plans. Staff’s concern is a legitimate one: What happens when it becomes clear that the allocations are inappropriate within a three-year plan cycle?

The People agree with Staff that to interpret Section 8-103(e) as applying only to new three-year plans renders this subsection meaningless. Staff Brief at 10. However, the People cannot support the retroactive adjustment of energy savings allocations for the PY 4 and 5, given that those years have already passed. It is inequitable, and indeed contrary to the “going forward” language in Section 8-103(e) to require retroactive adjustments of savings allocations for PY 4 and 5. However, it is not too late to make adjustments to PY 6, which officially began just three days ago. Conceivably, ComEd and DCEO could revise the allocated savings for PY 6 going forward, and attempt to modify a goal that DCEO has stated DCEO would require it to have to achieve approximately 50% greater savings among its customers than called for in the statutory goals in order to achieve them.<sup>7</sup>

Accordingly, the People supports Staff’s call for modification of the allocation of the energy savings goals between DCEO and ComEd for PY 6 (although not the specific number recommended), and urge the Commission to include a finding directing ComEd and DCEO to revisit the division of the PY 6 savings allocations numbers in accordance with the guidelines listed in Part III.A above. This will help ensure that responsibility for all of the cost-effective efficiency that is intended to be achieved and delivered for PY 6 is, in fact, placed with the correct entity.

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<sup>7</sup> DCEO Ex. 1.0 (Mrowzowski) at 10.



#### **IV. RESOLUTION OF THE CFL CARRYOVER ISSUE IN THIS DOCKET IS UNNECESSARY.**

In the second three-year electric plan, the Commission approved utilities claiming these “carryover” savings in future years, based on evaluator estimates of the portion of originally rebated CFLs that would be installed one and two years after the initial purchase. *See* ICC Docket No. 10-0570 at 53. In its Brief, Staff requests that the Commission include a finding in this Order that CFL measure savings be based on the savings values determined for the installation year based on Staff witness Jennifer Hinman’s expressed concerns in testimony that CFL carryover savings should be calculated based on the most appropriate savings estimates *at the time of actual installation, rather than based on savings estimates from the initial year of purchase*. Staff Brief at 16; Staff Ex. 1.0 at 31. Because of recent changes to federal standards, the assumed baseline practice is changing annually, and therefore using savings estimates based on a future year of actual installation would reflect lower savings. AG Ex. 2.0 at 14.

The People agree that it is clear that the appropriate savings should be based on the difference between the CFL energy usage and that of a baseline lamp that would likely otherwise have been installed at the time the CFL was installed. ComEd did not state a position on what savings calculation is most appropriate. Rather, the Company argued that Ms. Hinman is “prelitigating” this issue and that it is not related to this docket.

Since then, as ComEd noted in its Brief, the Commission has approved the first statewide Technical Resource Manual for PY 5, developed by Illinois utilities and representatives (including AG witness Mosenthal) of the Stakeholders Advisory Group. ComEd Brief at 12; *See* ICC Docket No. 12-0528, Order of January 9, 2013 at 4-5. As a result, the newly filed statewide TRM should prevail as the source and documentation for appropriate savings calculations. In addition, the savings for PY4 and PY5 are not yet before the Commission. Mr. Brandt also noted

that there is an effective collaborative process to address this issue through the Stakeholder Advisory Group's TRM development and updating process, and that consensus can be reached prior to any future savings claim filings by ComEd and other utilities in PY4 and PY5. ComEd Ex. 2.0 at 7.

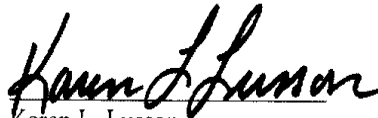
Accordingly, it is not necessary for the Commission to determine an explicit savings approach for these future CFL savings at this time. Staff's request for a finding on this point should be rejected.

## **V. CONCLUSION**

The People of the State of Illinois urge the Commission to adopt a final Order in this proceeding consistent with the conclusions outlined in this Reply Brief and the People's Initial Brief.

Respectfully submitted,

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